



Setti D. Warren  
Mayor

**City of Newton, Massachusetts**  
Department of Planning and Development  
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone  
(617) 796-1120  
Telefax  
(617) 796-1142  
TDD/TTY  
(617) 796-1089  
[www.newtonma.gov](http://www.newtonma.gov)


Candace Havens  
Director

## WORKING SESSION MEMORANDUM

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**DATE:** July 12, 2013

**TO:** Alderman Marcia T. Johnson, Chairman  
Members of the Zoning and Planning Committee

**FROM:** Candace Havens, Director of Planning and Development  
James Freas, Chief Planner, Long-Range Planning 

**RE:** #423-12: ALD. JOHNSON AND SANGIOLO requesting that the Director of Planning & Development and the Commissioner of Inspectional Services review with the Zoning & Planning Committee their analysis of the FAR regulations and assessment of the possible impact on housing construction and renovation in the City.

**MEETING DATE:** July 17, 2013

**CC:** Board of Aldermen  
Planning and Development Board  
Donnalyn Kahn, City Solicitor

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### INTRODUCTION

In February 2011, the Board of Aldermen adopted new residential floor area ratio (FAR) regulations under Ordinance Z-77, which changed both the way gross floor area is calculated and the allowed FAR in each residential zoning district. FAR is the ratio of building area to lot area and is used to regulate the mass of structures. Ordinance Z-77 sought to change FAR to more accurately reflect existing conditions, to make FAR easier to apply and enforce, and result in new residential construction in keeping with its surroundings. The new regulations became effective on October 15<sup>th</sup>, 2011, and were preceded and followed by extensive education of the building professional community. Petition #423-12 requests that the Planning Department and the Inspectional Services Department provide their assessment of the possible impacts of the FAR regulations since they went into effect in 2011.

The Planning Department has submitted information relative to the possible impacts of the new FAR regulations a number of times since their adoption, most recently in October 2012 marking the one year anniversary of the rule change, and in a follow-up meeting in November 2012. The general finding at that time was that the possible impacts of the new regulations were difficult to discern based on the limited time that had passed since the regulations became effective and broader market fluctuations. Any impact on the rate of home construction or renovation in Newton was impossible to accurately identify, as it is difficult to measure something that may not be happening; by comparison, where that can be seen, it is difficult to ascertain a causal relationship between the rule change and change in the number of building permits issued. Further, the rate of construction is so small in Newton that any design trends that may have been sparked by the rule change are still not greatly apparent.

While there are certainly more special permits being requested as a result of the FAR requirements than there were last year, that appears to be more an issue of market trends than a result of the particular change. The Department's recommendation remains that addressing the root issues of over-sized homes and neighborhood character that have resulted in the current FAR regulations should be taken up as part of the broader zoning reform effort envisioned in Phase 2.

## ANALYSIS

In previous reports, the Planning Department has presented data demonstrating a gradual rise in the number of building permits and special permit requests since the new FAR regulations went into effect in October 2011. This rise is consistent with the increasing rate of home construction seen in the greater Boston region over this same time period, which is itself a product of an apparently improving housing market and economy. This data, and data reflecting the time period between last October and now is presented below.

<b>Comparison of years before and after change (Year is Oct. 15 to Oct. 14)</b>	<b>2010-2011</b>	<b>2011-2012</b>	<b>2012-2013 (as of July 1)</b>
Total number of building permits	2,790	2,816	2,544
Total number of new home permits	73	82	54

<b>Comparison of special permits (SP) for FAR (Oct 15 to Oct 14)</b>	<b>2010-2011</b>		<b>2011-2012</b>		<b>2012-2013 (as of July 1)</b>	
	<b>Number</b>	<b>Percent of Total</b>	<b>Number</b>	<b>Percent of Total</b>	<b>Number</b>	<b>Percent of Total</b>
Approx. number of special permits	40	-	60	-	44	-
Residential SP for FAR	6	15%	14	23.3%	8	18%
Residential SP for FAR only	3	7.5%	6	10%	7	16%
Permits for new home construction	73	-	82	-	54	-
New Residential SP for FAR	0	0%	3	3.7%	0	0%
New Residential SP for FAR only	0	0%	2	2.4%	0	0%

The data clearly shows an increase in the number and percentage of special permit requests to exceed the allowed FAR. It is difficult to draw any significant conclusions from this data though, given the short time frame and limited number of examples. Some portion of the increase in special permits is attributable to the improving economy as more people decide to invest in home improvements. Overall, an increase in FAR-related special permit requests should not necessarily be an unexpected outcome as one of the purposes of the new regulations was to attempt to regulate massing such that new homes and the expansion of existing homes resulted in buildings consistent with the existing neighborhood. Given the variety of housing types found in Newton's existing neighborhoods, the fact that many homes are already built to or over what would be allowed under the FAR regulations, and a trend in the City towards larger homes, some increase in the number of special permits following the effective date of the new regulations might have been expected.

The details relative to the eight special permit requests filed between October 15, 2012 and July 1, 2013 can be found in the appendix. All would have required a special permit prior to the October 2011 change. Most of these homes already met or exceeded the FAR requirements such that any addition would have required them to apply for a special permit. The other notable trend in special permit requests for FAR in this time period is that they are almost all for relatively small additions that did not trigger any additional special permit requirements, in contrast to the previous year where many of the special permit requests were for significant alterations of existing homes or new homes.

Beyond impacts on the number of construction or renovation projects in the City, the other potential issue relative to the FAR rule change the Committee has discussed in the past is any impact on building design. Many have speculated that the new rules might lead to design decisions such as flatter roofs in order to maximize the available useable square footage that is counted towards the FAR limit. There are a number of factors that a designer or builder would need to weigh in deciding whether or how to manipulate the design towards such a goal. First, almost universally, the resulting attractiveness of the house remains important. Additional square footage in an unattractive house may not be worth it in the end. Second is the question of how difficult it is to get a special permit. The more simple and predictable this process is, the less likely designers and builders will feel the need to manipulate the project to avoid having to seek a special permit. In the approximately year and a half since the rule took effect it is clear that many designers and builders are factoring FAR into their design decisions in ways that allow them to avoid having to apply for a special permit. Each case is unique though and there is no indication of any large-scale negative trend in building design thus far. Again, as has been noted before, the rule has still only been in place for a short time and the sample is still relatively small.

## **NEXT STEPS**

The Planning Department and Inspectional Services Department continue to monitor development activity in the City and any potential impacts from FAR regulation change. As stated in previous reports on this topic, the Planning Department's recommendation remains that consideration of changes to the FAR regulations be considered in the context of the comprehensive zoning reform Phase 2 efforts. The Land Use Committee is also paying close attention to the FAR issue and will be discussing ways of improving their ability to review these projects through guidance, policy, or rule change. Staff welcomes any questions or concerns relative to the FAR regulations on which the Committee would like additional staff research.

ATTACHMENT: Special Permit Projects (Oct 15, 2011 to July 1, 2013)

Date	Address	Zone	Waivers	Size of Lot (sq. ft.)	Allowed FAR	Bonus	Existing FAR	Proposed FAR	Existing (sq. ft.)	Size of Addition (sq. ft.)	Number of sq. ft. over allowed FAR	SP under old rule	SP under interim rule	Notes
Oct-11	56 Waldorf Road	MR1	FAR, ext NC	5,403	0.57	No	0.36	0.60	1,945	1,297	162.09	Yes	Yes	Large two-story addition on a small lot
Nov-11	14 Loring Street	SR2	FAR	8,500	0.40	No	0.48	0.54	4,080	510	1,190.00	Yes	Yes	Replace existing screened porch with large home office on existing large house, modest lot
Nov-11	143 Lincoln Street	SR2	FAR, change NC	11,775	0.36	No	0.24	0.42	2,826	2,120	706.50	Yes	Yes	Doubling the size of a modest two-family to create two attached dwellings
Dec-11	39-41 Clarendon Street	MR1	FAR	11,130	0.50	Yes	0.55	0.58	6,122	334	890.40	No	Yes	Enclose existing porches on a two large attached dwellings, built under the 50% demo rule in 2006
Dec-11	43 Hillside Avenue	SR2	FAR, ext NC	8,365	0.41	No	0.54	0.66	4,517	1,004	2,091.25	Yes	Yes	3.5-story addition to large Victorian on a lot sloping to the rear
Jan-12	1841 Commonwealth Avenue	SR2	FAR, ext NC	8,475	0.40	No	0.34	0.48	2,882	1,187	678.00	Yes	Yes	Two-story addition and one car garage replacing existing two car garage
Mar-12	111 Pleasant Street	SR2	FAR, ext NC	5,628	0.45	No	0.72	0.76	4,052	225	1,744.68	Yes	Yes	Enclose rear porches on nonconforming two-family and structure on small lot
Mar-12	112 Exeter Street	SR1	FAR, 3rd story	16,080	0.32	Yes	0.29	0.36	4,663	1,126	643.20	Yes	Yes	Submitted under pre-Oct 15 rules, large split level ranch looking for 3rd story addition
Mar-12	112-116 Dedham Street #4 (new)	SR3	FAR, rear lot sub	15,033	0.24	No	n/a	0.36	n/a	5,412	1,803.96	Yes	Yes	Large home on rear lot subdivision with FAR waiver under Section 30-15, Table 4 for rear lots
Apr-12	150 Countryside Road (new)	SR1	FAR	25,000	0.26	No	n/a	0.28	n/a	7,000	500.00	No	No	Large new 2.5-story home with some exposed basement and enclosed porches
Apr-12	35 Norwood Avenue (new)	SR2	FAR	9,573	0.39	No	n/a	0.45	n/a	4,308	574.38	Yes	Yes	Large new 2.5 story home on modest lot with some exposed basement
Apr-12	258 Nevada Street	MR1	FAR, ext NC	11,122	0.48	No	0.31	0.57	3,448	2,892	1,000.98	Yes	Yes	Conversion of two-family to attached dwellings, new addition nearly doubling size of structure
Jun-12	97 Hillside Avenue	SR2	FAR	12,551	0.35	No	0.48	0.52	6,024	502	2,133.67	No	Yes	Demolition of existing garage, new attached garage on large 4-story Victorian

Aug-12	54 Oxford Road	SR3	FAR	7,681	0.48	Yes	0.71	0.73	5,454	154	1,920.25	No	Yes	Large nonconforming house on modest lot making small addition
Dec-12	37 Columbine Road	SR1	FAR	15,415	0.33	Yes	0.33	0.36	5,125	440	462.45	Yes		Addition and deck
Jan-13	55 Alban Road	SR2	FAR	13,020	0.35	No	0.38	0.40	4,999	190	651.00	Yes		Addition to west corner of house, fill in 2nd story deck to expand master suite
Feb-13	105 Nonantum Street	SR2	FAR	5,872	0.45	No	0.41	0.53	2,400	678	469.76	Yes		Renovate attic into master bedroom and bath suite
Feb-13	12 Fellsmere Road	SR2	FAR	8,500	0.40	No	0.39	0.50	3,338	945	850.00	Yes		Addition to west corner of house, fill in 2nd story deck to expand master suite
Mar-13	132 Hammond Street	SR2	FAR	13,561	0.34	No	0.36	0.43	4,905	880	1,220.49	Yes		1-story addition to rear, adding family room, kitchen area, deck. 2nd garage bay behind existing single car garage
Apr-13	99-101 Atwood Road	MR1	FAR	7,434	0.54	Yes	0.56	0.65	4,831	510	817.74	Yes		Expand 1st floor unit to include master bedroom, bathroom, screened-in porch at rear, built over carport for 2 cars
Apr-13	140 Church Street	MR1	FAR, decrease OS, exceed LC	9,070	0.51	Yes	0.76	0.77	6,896	109	2,358.20	Yes		Add mudroom off rear kitchen entry. Fill in corner in rear of kitchen
Apr-13	20 Burrage Road	SR2	FAR	5,771	0.45	No	0.45	0.48	2,789	210	173.13	Yes		2-car garage in lower basement level